United Nations A/C.5/59/SR.43

General Assembly
Fifty-ninth session

Official Records

Distr.: General
2 May 2005

Original: English

Fifth Committee

Summary record of the 43rd meeting
Held at Headquarters, New York, on Wednesday, 6 April 2005, at 3 p.m.

Chairman: Mr. MacKay ..... (New Zealand)
Chairman of the Advisory Committee on Administrative and Budgetary Questions: Mr. Kuznetsov

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05-29684 (E)

The meeting was called to order at 3.05 p.m.

The meeting was suspended at 3.05 p.m. and resumed at 3.15 p.m.

Agenda item 126: Financing of the United Nations Peacekeeping Force in Cyprus (*continued*) (A/C.5/59/L.39)

Draft resolution A/C.5/59/L.39

1. *Draft resolution A/C.5/59/L.39 was adopted.*

2. **Mr. Torres Lépori** (Argentina) reiterated his concern about the security and safety of all United Nations peacekeeping personnel. He hoped that the negotiations with the Government of Cyprus would yield positive results in the near future and contribute to ensuring the security and safety of staff in Cyprus.

Agenda item 127: Financing of the United Nations Organization Mission in the Democratic Republic of the Congo (*continued*) (A/C.5/59/L.41)

Draft resolution A/C.5/59/L.41

3. **The Chairman** recalled that, during informal consultations, the representative of Mexico had proposed a paragraph for inclusion in draft resolution A/C.5/59/L.41. That paragraph, which read: "*Emphasizes* that every effort should be made to introduce strict budgetary discipline and enforce adequate controls over budget implementation, bearing in mind the complexity of the Mission and the dangerous and highly volatile environment in which it operates as well as the problems related to the size of the country and lack of infrastructure", would be taken up by the Committee during the second part of the resumed fifty-ninth session in the context of its consideration of cross-cutting issues.

4. *Draft resolution A/C.5/59/L.41 was adopted.*

5. **Ms. Udo** (Nigeria), speaking on behalf of the African Group, recalled that the Group had made a detailed statement on agenda item 127 at the 40th meeting. The reservations it had expressed during the Committee's discussion of that agenda item should be taken into consideration by the Secretariat and the Advisory Committee on Administrative and Budgetary Questions (ACABQ) during the preparation of their respective reports.

Agenda item 133: Financing of the United Nations Interim Administration Mission in Kosovo (*continued*) (A/C.5/59/L.37)

Draft resolution A/C.5/59/L.37

6. **Mr. Mutiso** (Chief of the Finance Management and Support Service of the Department of Peacekeeping Operations) said that, as of May 2004, air services at the United Nations Interim Administration Mission in Kosovo (UNMIK) had been discontinued owing to the bankruptcy of a key vendor, Aviation Assistance. A new service had been contracted with another vendor at a cost of $2,354 per flight hour, double the rate charged by Aviation Assistance. Accordingly, additional requirements for air operations had been necessary under the budget for 2004-2005.

7. The Office of Legal Affairs had received a letter from the Danish bankruptcy court confirming that a company called "Plesner" would be the official receiver of the estate of Aviation Assistance. In order to protect the United Nations and to prevent it from incurring any unnecessary losses as a result of the bankruptcy, the Office would seek an indemnity from Aviation Assistance. In future, performance bonds would be required from all contractors providing air services.

8. *Draft resolution A/C.5/59/L.37 was adopted.*

9. **Mr. Pulido León** (Bolivarian Republic of Venezuela) wished to know when the Secretariat would be in a position to submit a report on the activities carried out by the Department of Peacekeeping Operations.

10. **Mr. Mutiso** (Chief of the Finance Management and Support Service of the Department of Peacekeeping Operations) said that the matter was currently being dealt with by the Office of Legal Affairs. The Department of Peacekeeping Operations was monitoring developments and would issue a report, containing details of the impact of the bankruptcy and of the steps taken to address the problems encountered in the area of air services, once a final settlement had been reached.

Agenda item 108: Programme budget for the biennium 2004-2005 (*continued*)

Agenda item 120: Administration of justice at the United Nations (*continued*)

Administration of justice at the United Nations (*continued*) (A/C.5/59/L.46)

Draft resolution A/C.5/59/L.46

11. **Mr. Mirmohammad** (Islamic Republic of Iran) said that the amendments to draft resolution A/C.5/59/L.46 reflected the outcome of the final round of negotiations on a sensitive issue. The draft resolution before the Committee would contribute to improving the formal and informal mechanisms for the administration of justice by, inter alia, eliminating the backlog of cases, providing adequate training, avoiding potential conflicts of interest and strengthening the professionalism of the United Nations Administrative Tribunal (UNAT). It also provided for the establishment of a panel of external experts to consider redesigning the system.

12. He proposed the addition of a new paragraph 53, which would read: "*Decides* that activities in the operative paragraphs above that would give rise to additional resource requirements during the biennium 2004-2005 should be included in the proposed programme budget for the biennium 2006-2007".

13. **Ms. Van Buerle** (Officer-in-Charge of the Programme Planning and Budget Division) recalled that, in her previous statement on draft resolution A/C.5/59/L.46, she had informed the Committee that the Secretariat had been unable to conduct consultations with all parties concerned on the scope and extent of the requirements of the operative paragraphs of the draft resolution but that preliminary estimates had indicated that certain paragraphs might give rise to financial implications for the programme budget for 2004-2005. However, following extensive consultations with the substantive offices concerned and bearing in mind the clarifications provided and the addition of a new operative paragraph 53, it was clear that the draft resolution would have no financial implications for 2004-2005. Nonetheless, since certain paragraphs had been of particular concern to the Secretariat, she wished to place on record her understanding of them.

14. With reference to paragraph 8, she said that a "jury" system was a radical departure from the current system of volunteers and the exploration of the implications of that option would require outside expertise. In addition, the relevant study would need to be conducted system-wide in order to take into consideration all duty stations with standing Joint Appeals Boards. Given that the Secretary-General's report to the Assembly at its sixtieth session on the administration of justice had already been submitted for translation, the Secretariat anticipated that the implications of the "jury" system would be provided to the General Assembly no later than at its sixty-first session. Accordingly, any additional requirements arising for the conduct of the study would be contained in the revised estimates for the proposed programme budget for 2006-2007.

15. In view of the oral amendment to the draft resolution, the Secretariat would proceed with the implementation of paragraphs 10, 25 and 37 where capacity existed. Activities that would give rise to additional resource requirements would be addressed in the context of the revised estimates for 2006-2007.

16. As far as paragraph 30 was concerned, the Secretary-General would present proposals to separate the functions currently performed by the Administrative Law Unit by the end of the fifty-ninth session and no implementation action was required before the submission of such a report. Accordingly, there would be no budgetary implications for 2005. Any additional requirements arising from the decisions of the General Assembly would be considered in accordance with established procedures.

17. With regard to paragraph 46, very little dialogue existed between other international administrative tribunals and UNAT. The review described in paragraph 46 would involve analysing information from other tribunals and, to that end, a detailed questionnaire would have to be prepared and distributed. However, the Secretariat intended to proceed with the exercise and any additional requirements arising in respect of the comparative analysis of information would be considered in the context of the revised estimates for 2006-2007. Lastly, at the Committee's 42nd meeting she had indicated that a number of other paragraphs of the draft resolution might give rise to additional requirements for the biennium 2006-2007. Any such requirements would

also be considered in the context of the revised estimates for that biennium.

18. *Draft resolution A/C.5/59/L.46, as orally amended, was adopted.*

19. **Mr. Torres Lépori** (Argentina), speaking on behalf of the Rio Group, welcomed the adoption of the draft resolution but regretted the delays in the issuance of the relevant documentation. In future, the topic of administration of justice would be revisited to ensure that the system in place was balanced, rational and efficient. With reference to paragraph 47 of the draft resolution, it was his understanding that the panel would work on the basis of existing procedures and would respect UNAT as the highest judicial authority of the United Nations.

20. **Mr. Mazumdar** (India) welcomed the adoption of the draft resolution and expressed satisfaction that the obstacles to the negotiations had disappeared. The measures envisaged in the draft resolution were a good start and he looked forward to their implementation.

21. **Mr. Hao** Bin (China) welcomed the adoption of the draft resolution and emphasized the need to strengthen the existing system of administration of justice.

The meeting was suspended at 3.40 p.m. and resumed at 3.45 p.m.

Agenda item 108: Programme budget for the biennium 2004-2005 (*continued*)

Agenda item 114: Human resources management (*continued*)

Recruitment

*Draft decision submitted by the Chairman**

22. **The Chairman** suggested that the Committee should adopt the following draft decision, which had been prepared in response to the misinterpretation by the Office of Human Resources Management of a previous Assembly resolution on human resources management:

"*The General Assembly*,

(a) *Decides*, in view of the fact that printed copies of vacancy announcements were not distributed to delegations as required by paragraph 5 of section II of General Assembly resolution 59/266 of 23 December 2004, with respect to the establishment of the Department of Safety and Security in accordance with section XI of resolution 59/276, that the D-2 post of deputy to the Under-Secretary-General, the D-2 post of Director of the Division of Regional Operations, the D-2 post of Director of the Division of Safety and Security Service, and the D-1 post of Executive Officer should, on an exceptional basis, be readvertised for thirty days, while continuing the process with respect to recruitment actions already under way;

(b) *Also decides* that, in respect of the fourteen P-3 to P-5 posts in the Department of Safety and Security for which vacancy announcements have been issued between 3 March 2005 and 31 March 2005 in Galaxy but not distributed in printed copy, the deadline for receipt of applications shall be extended by fifteen days, on an exceptional basis;

(c) *Requests* the Secretary-General to comply fully with the provisions of paragraph 5 of section II of resolution 59/266."

23. **Ms. Udo** (Nigeria) wished to know whether copies of the vacancy announcements and application forms for the posts referred to in the draft decision had been circulated to United Nations offices worldwide.

24. **Ms. McCreery** (Assistant Secretary-General for Human Resources Management) replied that vacancy announcements could be consulted in all duty stations with access to the Galaxy system. In order to apply for vacancies, interested candidates could download a personal history form from Galaxy.

25. **Ms. Russler** (Department of Safety and Security) said that, should the Committee adopt the draft decision, the appointment of senior staff and, hence, the selection of candidates to fill Professional-level posts would be delayed and the Department would not be fully operational until 1 January 2006, rather than 1 September 2005 as planned. That would be very disappointing. Without a full complement of staff, the Department's ability to ensure the safety and security of United Nations staff members would be severely compromised. That should be a matter of concern to Member States, since those staff members were their nationals. It would also be difficult, if not impossible,

* Subsequently issued as document A/C.5/59/L.47.

for the Department to submit an implementation report to the General Assembly at its sixtieth session, as requested in resolution 59/276.

26. **Ms. Taylor Roberts** (Jamaica), speaking on behalf of the Group of 77 and China, said that it was not the action envisaged by the Committee that was disappointing but rather the failure by the Secretariat to comply with the regulations and rules governing staff recruitment. That had compelled Member States to request corrective measures.

27. *The draft decision submitted by the Chairman was adopted.*

28. **Ms. Skaare** (Norway), speaking in explanation of position, said that her delegation had joined the consensus with difficulty. When the General Assembly had decided in December 2004 to establish the Department of Safety and Security, it had recognized the need for the urgent implementation of a unified and strengthened security management system. Strengthening security would ensure that the United Nations was present where it was needed and was able to deliver programmes effectively. It was therefore regrettable that the Committee had adopted a draft decision that would delay the recruitment of staff for the Department, thereby hampering its operations. Moreover, the protracted negotiations on the draft decision had delayed the adoption of a number of important draft resolutions.

29. **Mr. Berti Oliva** (Cuba) said that, while the possible impact of the draft decision on the Department of Safety and Security was unfortunate, the situation would not have arisen had the Secretariat followed the General Assembly's directives and it was incorrect to describe the draft decision itself as a source of difficulties. Clearly, a stronger system of accountability was needed. The Administration must comply with the decisions of the General Assembly and any departure therefrom must be approved by Member States.

30. He expressed regret at the tenor of the statement made by the representative of the Department. Her comments would be difficult to accept for delegations adversely affected by the misinterpretation of General Assembly resolution 59/266. He wished to remind her that the negotiations on the resolution establishing the Department had been long and arduous and that the contribution made by Member States deserved respect.

31. **Mr. Alarcón** (Costa Rica) said that his delegation deeply regretted that it had been necessary to adopt the draft decision. In due course, it would request the Secretariat to indicate where responsibility lay for its failure to comply with the decisions of the General Assembly.

32. **Mr. Mazumdar** (India) endorsed the statements made by the representative of Jamaica on behalf of the Group of 77 and China and the representatives of Cuba and Costa Rica. He had understood that the Secretariat was bound by the principle of collective responsibility and had been disappointed to hear one department lay blame on another. He trusted that the Department of Safety and Security and the Office of Human Resources Management would work together to address the problems that had arisen.

33. **Mr. Simancas** (Mexico) sought an assurance that the points made would be brought to the attention of the relevant Secretariat units.

34. **Mr. Torres Lépori** (Argentina) expressed support for the statements made by the representative of Jamaica on behalf of the Group of 77 and China and the representatives of Cuba, Costa Rica and India. It was not for the Secretariat to judge Member States or the decisions they took and what had occurred in the meeting was deeply regrettable.

35. **Ms. Udo** (Nigeria), speaking on behalf of the African Group, said that the Group shared the disappointment expressed by previous speakers about the Secretariat's failure to comply with the decisions of the General Assembly.

Agenda item 107: Review of the efficiency of the administrative and financial functioning of the United Nations (*continued*)

Questions deferred for future consideration (A/C.5/59/L.43)

Draft decision A/C.5/59/L.43

36. **The Chairman** drew attention to draft decision A/C.5/59/L.43.

37. **Mr. Abelian** (Secretary of the Committee) said that paragraphs (n) to (z) of the draft decision should be deleted.

38. *Draft decision A/C.5/59/L.43, as orally revised, was adopted.*

Other matters (*continued*)

39. **Ms. Udo** (Nigeria), speaking on behalf of the African Group, recalled that at its 42nd meeting, the Committee had adopted a draft decision on "Construction of additional office facilities at the Economic Commission for Africa (ECA) in Addis Ababa", contained in document A/C.5/59/L.38. In the draft decision, the Committee had, inter alia, endorsed the recommendations contained in the related report of ACABQ (A/59/572). In paragraph 8 of its report, the Advisory Committee, referring to the plans to provide for additional meeting rooms in the new building at ECA, had expressed the opinion that, given the unavoidable additional requirements for security, as well as the costs of delays experienced thus far, it was imperative to make maximum use of the building for the purpose for which it was initially intended, namely, the provision of office space for the use of staff. The Group had stated categorically that it did not share the opinion of ACABQ and the Committee had not endorsed it. Yet the press release concerning the meeting (GA/AB/3667) implied that that opinion constituted a recommendation, which had been endorsed in the draft decision. Clearly, confusion had arisen because the third sentence of paragraph 8 appeared in bold type, whereas that treatment was reserved for recommendations. The Group did not want to reopen discussion of the draft decision. Nevertheless, its content had been misrepresented. The press release concerning the current meeting should therefore reflect the fact that the Committee had not endorsed the opinion contained in paragraph 8 of the Advisory Committee's report.

40. **The Chairman** said that the secretariat had taken note of the request just made.

Completion of the work of the Fifth Committee at the first part of the resumed fifty-ninth session of the General Assembly

41. After an exchange of courtesies, in which **Ms. Taylor Roberts** (Jamaica) and **Mr. Torres Lépori** (Argentina) spoke on behalf of the Group of 77 and China and the Rio Group, respectively, **the Chairman** declared that the Fifth Committee had completed its work at the current stage of the first part of the resumed fifty-ninth session of the General Assembly.

The meeting rose at 4.30 p.m.